THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
and
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 18583 of 2007

O R D E R: (Per the Hon'ble Smt. Justice T. Meena Kumari)

This writ petition is filed against the order dated 10.10.2006 passed by the Central Administrative Tribunal, Hyderabad Bench in O.A. No. 356 of 2003.

Heard the learned counsel for the petitioner and perused the material available on record.

The petitioner herein filed O.A. 356 of 2003 before the Tribunal challenging the proceedings No.BEG/2756/579/PC dated 28.7.1999 treating the petitioner's absence from duty from 22.7.1999 onwards as dies non and the proceedings No.BEG/2756/579/PC dated 25.9.2002 specifying that that the petitioner's period of absence has been regularized as extraordinary leave (20.7.1999 to 29.7.1999, 13.8.1999 to 25.8.1999 and 27.8.1999 to 26.4.2001) consequent on award of punishment under Rules 14 and 15 of CCS (CCA) Rules.

The petitioner in this writ petition has raised several grounds which were also raised by him in the O.A. filed before the Tribunal. The Tribunal, in fact, has narrated all the grounds that have been taken by the petitioner in the O.A. filed by him and observed as under:

> "During the course of oral hearing, the learned counsel for the applicant submitted that the prayers made in this O.A. are linked to the charge memorandum being assailed

> in O.A. 1186 of 2003 and hence this O.A. has become infructuous so far as the impugned orders are concerned. This Tribunal also notes the specific averment made by the respondents vide Para-3 of their reply statement that as the applicant's unauthorized absence has been regularized by the competent authority as EOL after the proceedings initiated under the said charge memorandum (being assailed in O.A. 1186/03) were finalised as otherwise the applicant's past service would have stood forfeited.
>
> In view of the above discussions, this O.A. is dismissed as being without merits and with no order as to costs".

Thus, it is seen from the order passed by the Tribunal that the learned counsel appearing for the petitioner – applicant in the Tribunal himself submitted before the Tribunal that the prayers are linked to the charge memorandum being assailed in O.A. 1186 of 2003 and hence the O.A. has become infructuous insofar as the impugned orders are concerned. Though the petitioner has denied in the writ petition as to making any such submission before the Tribunal, the above observation of the Tribunal falsifies the said submission made by the petitioner.

Even otherwise, the counter filed by the respondents herein before the Tribunal makes it clear that the petitioner was unauthorisedly absented himself from duty and therefore charge memo was issued and after inquiry being conducted and the charges being proved, the period during which the petitioner remained absent was treated as dies non and subsequently the said absence period was treated as EOL to regularize his period of

absence as otherwise it would cause break in service. Having regard to the facts and circumstances, this Court does not find any error or infirmity in the order passed by the Tribunal warranting interference of this Court.

The writ petition has no merit. It is accordingly dismissed.

T. MEENA KUMARI, J.

G. CHANDRAIAH, J.

Date: 03-09-2007.

MVB.